

Memorandum



Date: June 5, 2007

To: Honorable Chairman Bruno A. Barreiro and
Members, Board of County Commissioners

Agenda Item No. 9(A)(5)(A)

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess", written over the printed name of George M. Burgess.

Subject: Proposed Resolution Establishing a Fraudulent Contractor Recovery Trust Fund
Authorizing Transfer of \$600,000 of Building Code Compliance Carryover Funds to
the Recovery Trust Fund

RECOMMENDATION

It is recommended that the Board adopt the attached proposed resolution establishing a dedicated Fraudulent Contractor Recovery Trust Fund to receive monies and make appropriate disbursements to provide relief and assistance to property owners and residents damaged by the actions of contractors who obtained illegal licenses.

BACKGROUND

A scheme to defraud the public through the unauthorized issuance of Miami-Dade County contractor licenses was uncovered by the Building Code Compliance Office (BCCO) in March 2006. Suspicion was generated by an anomaly in computer records discovered during the course of a routine investigation. The Miami-Dade County Police Department (MDPD), ultimately in conjunction with the State Attorney's Office, conducted a four month investigation which culminated in the execution of search warrants and eventual arrests of County employees implicated in August. Continued criminal prosecution is ongoing through the State Attorney's Office.

Miami-Dade County took steps to immediately make the public aware of the possibility that they could be affected if work was performed on their property by one of the over 271 illegally licensed contractors. Through the involvement of multiple County departments, information was disseminated regarding these fraudulent contractors with the purpose of reducing the impact on those affected. Revocation holds were placed on the electronic files of those contractors initially identified by Miami-Dade County Police investigation and those subsequently discovered by the Building Code Compliance Office. A webpage devoted to providing the most current information regarding the illegally licensed contractor issue was also established. Utilizing the 311 Answer Center to provide responsive information, coordinated guidance on how to initiate a complaint against these fraudulent contractors has been provided to the community. Research to identify all of the permits obtained by the illegally licensed contractors, which were in-progress, finalized and expired, was also conducted and advisory letters were sent to affected property owners outlining the steps necessary to resolve processing of the specific permits. Outreach efforts using various media were developed to safeguard residents and advertise available relief mechanisms.

Those affected property owners and residents are being urged to pursue restitution and relief using the complaint process administered by the Building Code Compliance Office and the disciplinary hearing procedures established by the Construction Trades Qualifying Board (CTQB). The CTQB enforces local

contractor licensing through the authority of Chapter 10 of the Miami-Dade Code. The CTQB reviews these complaints and imposes discipline or assesses fines and restitution against those found guilty of obtaining fraudulent contractor licenses and contracting without a valid license through a formal hearing process. The Construction Trades Qualifying Board began their hearing process in October 2006 with pleas entered by each illegal contractor. The next phase of the Board's formal hearing process will now begin in May with the assessment of penalties and other disciplinary action. At this time, appropriate restitution will be ordered and the resident may be able to receive payments for damages from illegal contractor. The purpose of the ordered restitution is to provide relief to those affected individuals who may be affected by the actions of the unlicensed individual and who is unable to recover from the offending party.

The proposed resolution will serve to establish a separate Fraudulent Contractor Recovery Trust Fund where monies collected as a result of the imposition of fines, restitution and/or administrative fees in these cases by the CTQB can be deposited. Carryover funds in the amount of \$600,000 from the Building Code Compliance Office will also be deposited in this Trust Fund. These funds can then be distributed to those affected property owners and residents who filed a complaint and who have suffered fiscal damages associated with the use of these illegal contractors.

Eligible property owners and residents qualify by utilizing the CTQB complaint process to identify damages to be awarded recovery funds. The complaint submission and hearing process provides for a framework for individuals to have those damages identified through presentation of supporting documentation. The CTQB evaluates the information during the administrative hearing process that is held against the illegal contractor and then orders restitution or remedy to be awarded to the complainant. Any funds collected from the illegal contractor based on the CTQB order will be deposited into the Fraudulent Contractor Recovery Trust Fund to be managed and distributed by the Building Code Compliance Office to the affected homeowners utilizing criteria outlined in the resolution. Restitution that has been ordered by the Construction Trades Qualifying Board that has not been remitted within 30 days of order will be eligible in accordance with administrative process established. The creation and use of this Fraudulent Contractor Recovery Trust Fund will, therefore, allow for a process of disbursement of funds to those who have been negatively affected.

FISCAL IMPACT

The implementation of this resolution will have a fiscal impact to Miami-Dade County. However at this time, the scope of that impact cannot be determined due to several factors relating to the level of damages incurred by impacted property owners and the level of recovery and restitution by the illegal contractors.



Alex Muñoz
Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: June 5, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 9(A)(5)(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(5)(A)
06-05-07

RESOLUTION NO. _____

RESOLUTION APPROVING THE ESTABLISHMENT OF A DEDICATED FRAUDULENT CONTRACTOR RECOVERY TRUST FUND TO RECEIVE MONIES AND MAKE APPROPRIATE DISBURSEMENTS TO PROVIDE RELIEF AND ASSISTANCE TO PROPERTY OWNERS AND RESIDENTS DAMAGED BY THE ACTIONS OF CONTRACTORS WHO OBTAINED ILLEGAL LICENSES THROUGH A RECENT FRAUDULENT LICENSE SCHEME; AUTHORIZING USE OF \$600,000 OF THE BUILDING CODE COMPLIANCE OFFICE CARRYOVER REVENUE TO BE TRANSFERRED INTO THE FRAUDULENT CONTRACTOR RECOVERY TRUST FUND

WHEREAS, Miami-Dade County has identified individuals that have illegally purchased contractor licenses; and

WHEREAS, property owners and residents may have incurred costs as a result of entering into contracts with contractors who had illegally purchased licenses; and

WHEREAS, the Building Code Compliance Office ("BCCO") is seeking restitution and relief from the unlicensed or illegally licensed individuals using the complaint process administered by the Building Code Compliance Office and the disciplinary hearing procedures established by the Construction Trades Qualifying Board; and

WHEREAS, property owners and residents can be provided restitution of any damages ordered through the Construction Trades Qualifying Board administrative hearing process as a result of using contractors who had illegally purchased licenses; and

WHEREAS, the Building Code Compliance carryover funds in the amount of \$600,000 have been identified to support the relief effort to be supplemented by monies recovered by BCCO by individuals who had illegally purchased licenses; and

WHEREAS, the establishment of a dedicated trust fund to receive and disburse monies recovered and allocated would provide an appropriate mechanism to distribute funds to affected individuals,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Finance Director is directed to establish Fraudulent Contractor Trust Fund ("Trust Fund") to be administered by the Building Code Compliance Office in accordance with this resolution and the County's investment policies for the sole purpose of providing relief and assistance to property owners and residents who had contracted with persons holding illegally purchased licenses, in the limited circumstance that the person holding an illegally purchased license is not able to make restitution to such owners or residents in accordance with the terms of an applicable order issued pursuant to the Building Code Compliance Office contractor complaint process and/or the Construction Trades Qualifying Board hearing process.

Section 2. The Building Code Compliance Office is authorized to transfer \$600,000 of carryover revenue into the Trust Fund. Penalties assessed by the BCCO or the Construction Trades Qualifying Board against any person holding an illegally purchased

license other than restitution or other accounts pending directly to the affected party shall be deposited into the Trust Fund.

Section 3. The Trust Fund shall be made available for disbursement in the following manner:

A. \$250,000 – Restitution to affected residents: The Trust Fund can be utilized to pay restitution to residents and/or building departments who:

(1) have utilized the Contractor complaint process and the CTQB hearing process, or if BCCO has previously instituted an action arising out of work performed at a resident's property by persons holding illegally purchased license, and

(2) demonstrate the failure of the illegally licensed contractor to pay the restitution ordered, despite exhaustive efforts and,

(3) provided to BCCO proof, reasonably satisfactory to BCCO, of work done by illegal contractor and work is required to correct building code violations and the reasonable cost of such work,

4) Presents BCCO with final and complete receipts from licensed contractors who have been retained by such resident to perform the work necessary to correct the building code violations.

5) Assign to BCCO any and all of such verdict's right to restitution and any and all contractor obligations to recovery against the illegal contractor.

In the event that such showing is made, BCCO is authorized to make payment to the resident, at 60 percent of the documented amount, with a maximum of \$20,000. A maximum of \$250,000 will be made available for this purpose. If CTQB has ordered restitution, BCCO can make direct payments from the Trust Fund in amounts commensurate with the CTQB Board Order and then later recoup such disbursement from the illegally licensed contractor.

B. *\$50,000 - Emergency repair cost for affected residents:* Trust Fund may be utilized to reimburse residents for initial emergency repairs required as a result of work performed by illegal licensed contractor. A maximum of \$3,000 per resident for repairs can be claimed following criteria of Section 3 A. (1), (3), and (5) restitution to residents. Under no circumstances shall total payments under this Section Exceed \$50,000.00, or eight percent of the value of the Trust Fund, whichever is less.

C. *\$300,000 – Building Department costs:* The Trust Fund may be utilized to reimburse municipal building departments who demonstrate documented claims of administrative costs associated with the resolution of those permits pulled by the 271 identified contractors holding illegally purchased licenses. In no circumstances shall total payments to municipal building departments made pursuant to this Section exceed \$300,000.00 or fifty percent of the value of the Trust Fund, whichever is less at 60 percent of the documented amount of each claim and of an aggregate not to exceed the fund amount designated for such costs.

Section 4. Payments under the above funds shall be made in the order in which a completed application is received by BCCO in forms to be developed for such purpose.

Section 5. Those fees collected as a result of the Construction Trades Qualifying Board Orders and deposited in the Trust Fund may be used to pay restitution to affected residents/and or building departments as outlined in Section 4 of this resolution.

Section 6. The Fraudulent Contractor Recovery Trust Fund will terminate January 1st, 2008 and unallocated remaining funds will be deposited into Building Code Compliance Office budgeted carryover funds. In no circumstances shall requests for reimbursement which are incomplete on or after January 1st, 2008, or which are made after that date, be eligible for reimbursement from the Trust Fund.

Section 7. The Trust Fund is established to provide relief to affected residents and to otherwise provide for the public safety and welfare; however, no resident shall be entitled to receive any reimbursement from the Trust Fund. Reimbursement is not an acknowledgement of any County wrongdoing or liability with respect to any costs incurred by a resident.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:



Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz
Carlos A. Gimenez
Joe A. Martinez
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto

Audrey M. Edmonson
Sally A. Heyman
Dennis C. Moss
Natacha Seijas
Rebeca Sosa

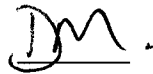
The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of June, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



David M. Murray